



Attachments from the Comment Letter Received from

Mr. Joseph Sadowski

and

Dr. Rebecca Carley, MD

Note: The comment letter received from Mr Joseph Sadowski and Dr. Rebecca Carley, MD during the public comment period for the Hooker Chemical/Ruco Polymer Superfund Site Proposed Plan has been attached to Appendix D of the Record of Decision, September 2000.

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- # 37** LAW OF SECTION 1983  
§ 1:15
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- #39** FAX SUBMISSION

10.0117

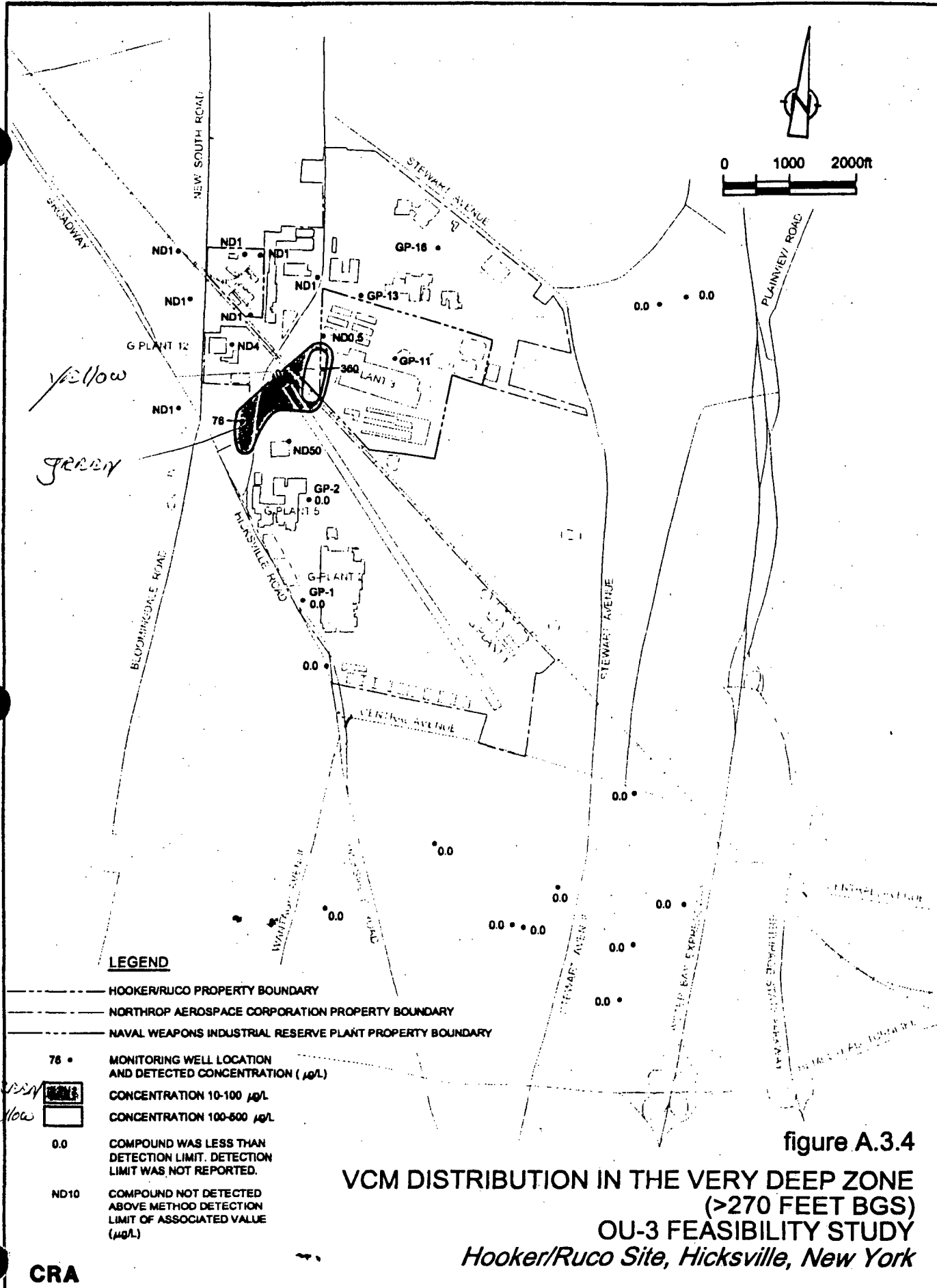
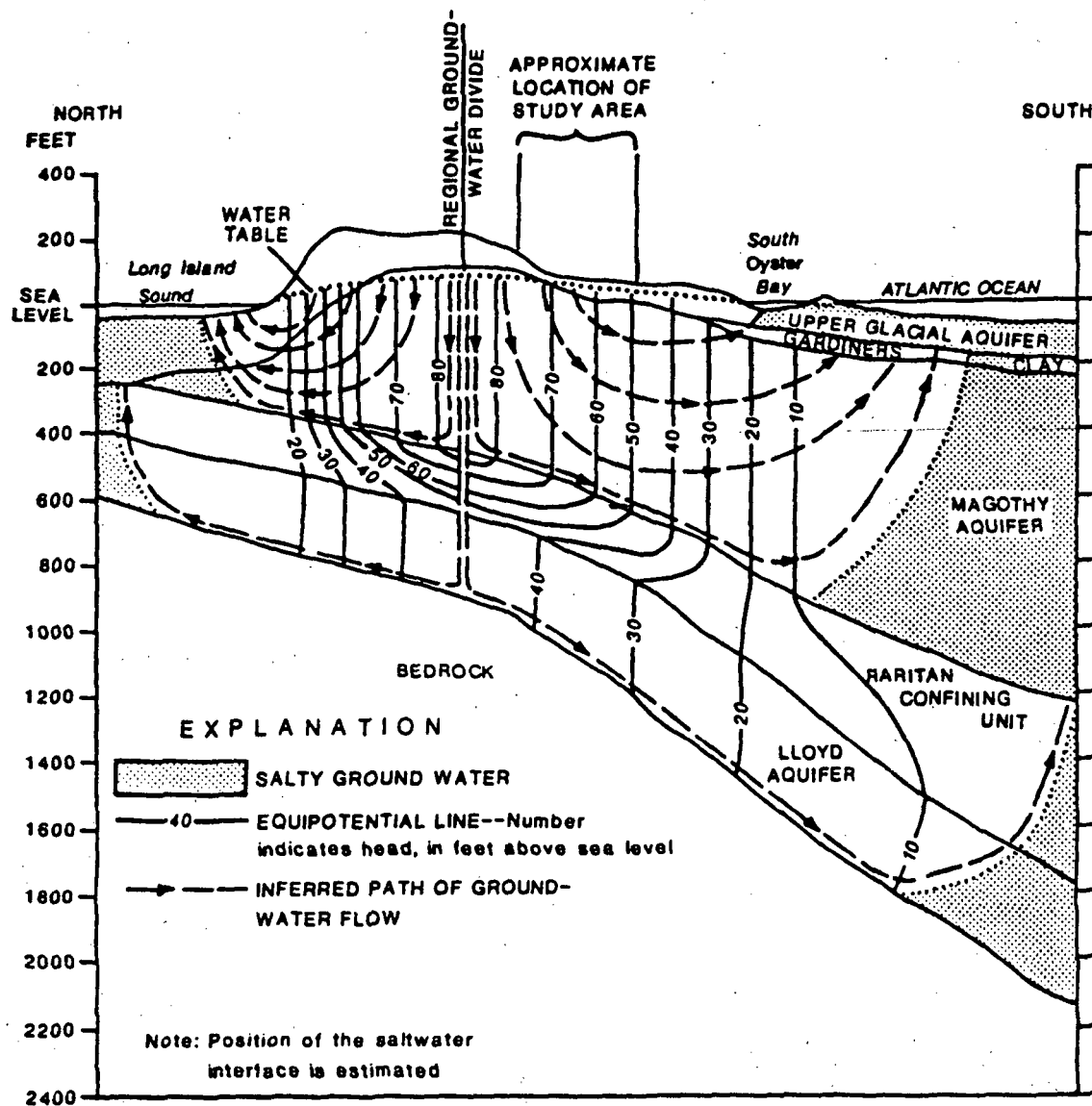


figure A.3.4





SOURCE: SMOLENSKY, D.A. AND S.M. FELDMAN, GEOHYDROLOGY OF THE BETHPAGE-HICKSVILLE-LEVITTOWN AREA, LONG ISLAND, NEW YORK, U.S. GEOLOGICAL SURVEY WATER-RESOURCES INVESTIGATIONS REPORT 88-4135, 1988.

figure 4.2

GENERALIZED REGIONAL HYDROGEOLOGIC  
SECTION THROUGH NASSAU COUNTY  
OU-3 REMEDIAL INVESTIGATION  
*Hooker/Ruco Site, Hicksville, New York*

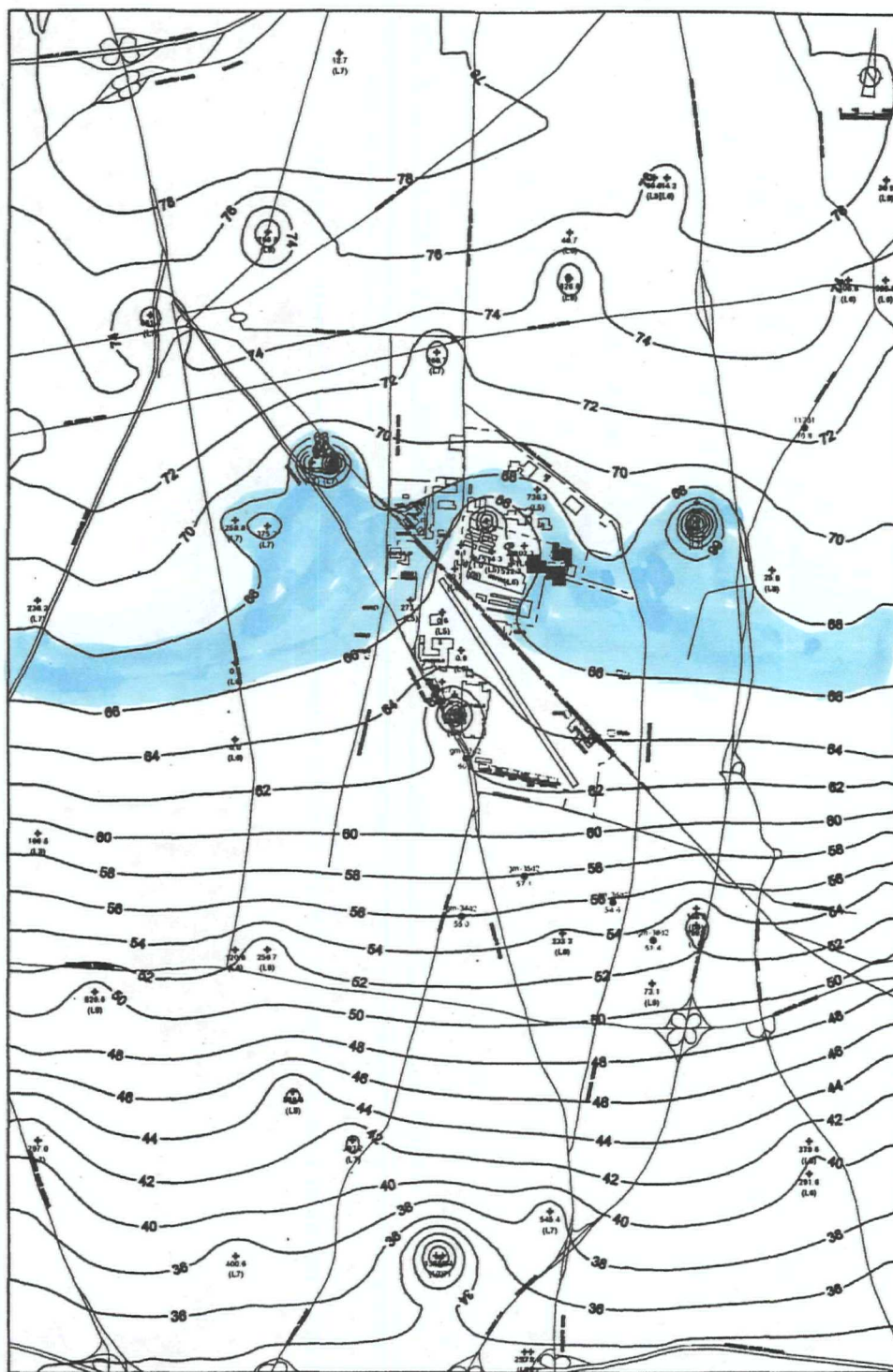
**CRA**

06883-00(017)GN-WA001 JUL 21/2000

10.0120







- Legend**
- gms-181
  - 66.20
  - Active recharge basin/pump location
  - ⊕ 200.0 (L5)
  - 68 — Simulated steady-state hydraulic head using the updated calibrated G&M groundwater flow model (ft. amsl)
- Monitoring well location and average of April and September 1993 observed groundwater elevations (ft. amsl) in model layer 7
- Active pumping well location and pumping rate (gpm) from layer 7

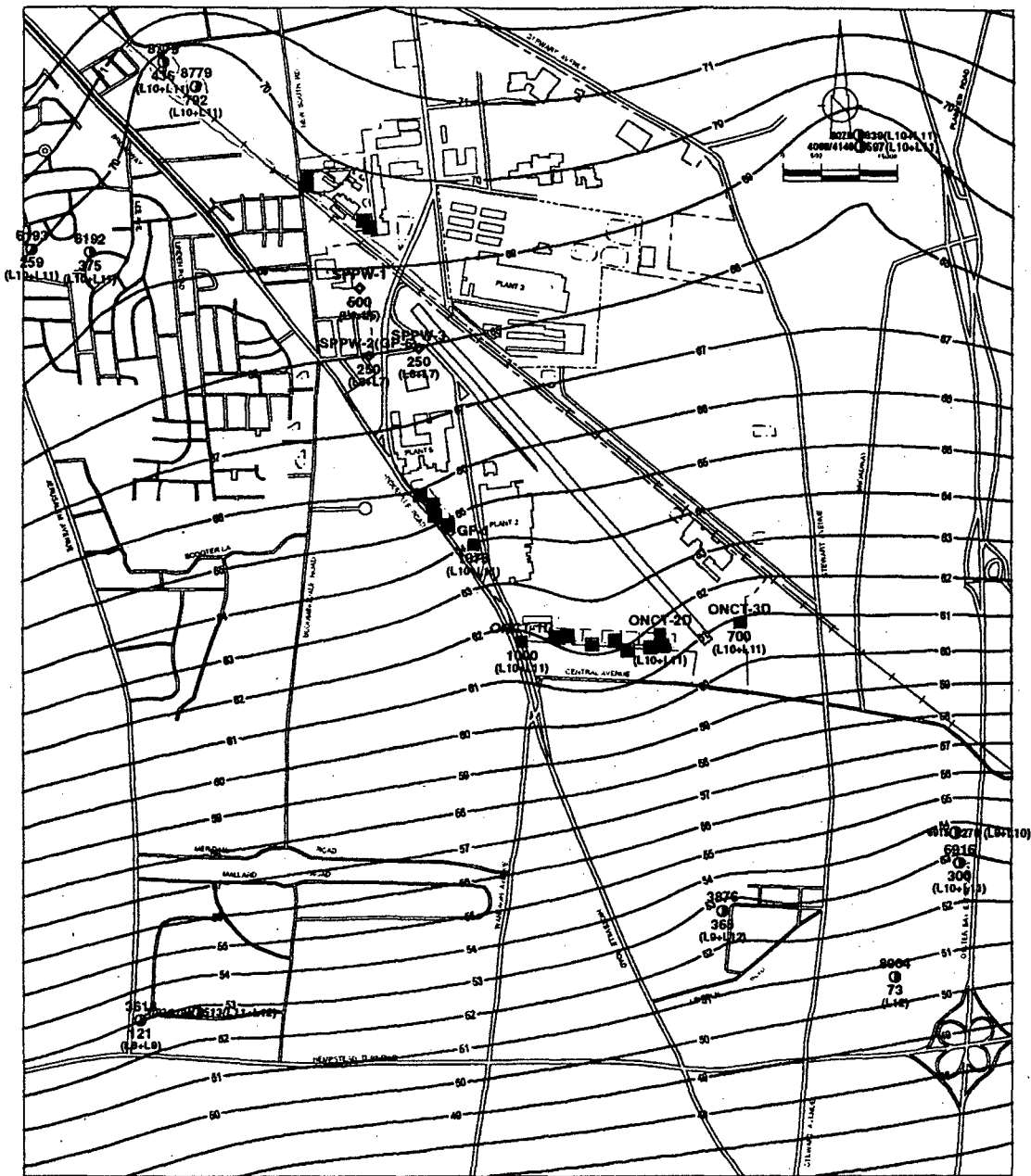
figure H.2.8  
**UPDATED G&M CALIBRATED GROUNDWATER FLOW MODEL**  
**STEADY-STATE HYDRAULIC HEAD IN LAYER 7**  
**OU-3 REMEDIAL INVESTIGATION**  
**Hooker/Ruco Site, Hicksville, New York**

**CRA**

06883-00(017)GN-W-HYD (n theg6808b/vnmod/gmupdate/newfo7h wrl JAN 11/99



4



**Legend**

- Active sump/recharge basin location.
- GP-1
- 1075 (L10+L11) Northrop pumping well location and pumping rate (gpm) from refined model layers ( )
- 6192 Municipal pumping well location and pumping rate (gpm) from refined model layers ( )
- 3/5 (L10+L11)
- 88 — Simulated steady-state hydraulic head in layer 6 of refined model (ft amsl)

**figure H.5.7**  
**NORTHROP IRM**  
**STEADY-STATE HYDRAULIC HEAD IN LAYER 6 OF REFINED MODEL**  
**OU-3 REMEDIAL INVESTIGATION**  
**Hooker/Ruco Site, Hicksville, New York**

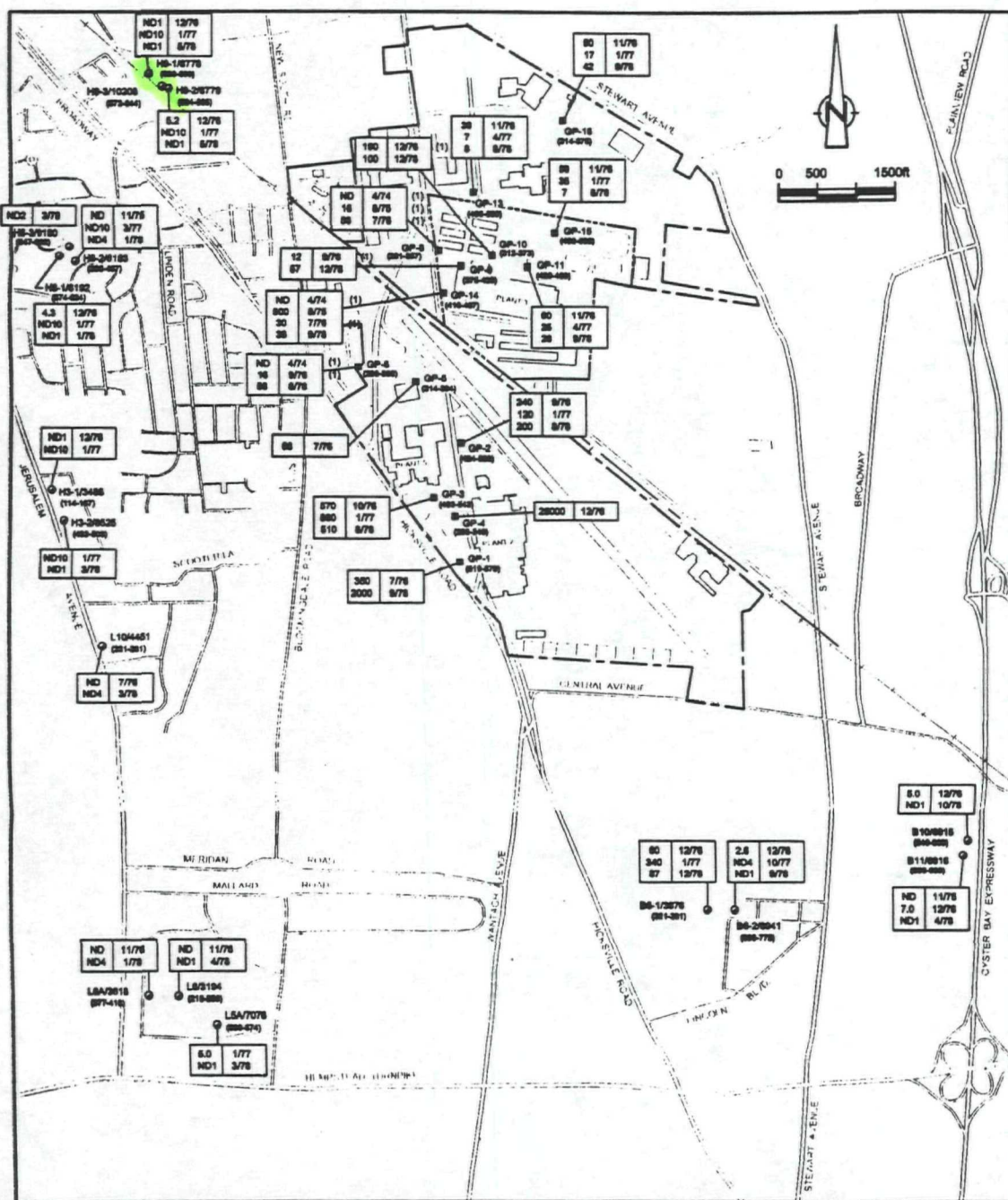
**CRA**

06883-00(017)EN-WH-MYD (in bag) 688301/mrdg (um6 ar) JAN 08/99

10.0124







#### LEGEND

- HOOKER/RUCO PROPERTY BOUNDARY
- NORTHROP AEROSPACE CORPORATION PROPERTY BOUNDARY
- NAVAL WEAPONS INDUSTRIAL RESERVE PLANT PROPERTY BOUNDARY
- SUSPENSION BASIN
- L104451 (221-221)
- L104452 (221-221)
- L104453 (221-221)
- GP-1 (214-221)
- GP-2 (214-221)
- GP-3 (214-221)
- GP-4 (214-221)
- GP-5 (214-221)
- GP-6 (214-221)
- GP-7 (214-221)
- GP-8 (214-221)
- GP-9 (214-221)
- GP-10 (214-221)
- GP-11 (214-221)
- GP-12 (214-221)
- GP-13 (214-221)
- GP-14 (214-221)
- GP-15 (214-221)
- GP-16 (214-221)

- 5.0 12/78 SAMPLE DATE
- ND1 10/78
- CONCENTRATION (µg/L)
- ND NOT DETECTED
- NDx NOT DETECTED AT OR ABOVE x µg/L

NOTE: (1) NORTHROP PRODUCTION WELL WAS NOT PUMPING DURING MONTH WHEN ANALYTICAL RESULT WAS OBTAINED. FOR ALL OTHER ANALYTICAL RESULTS SHOWN, NORTHROP PRODUCTION WELLS WERE PUMPING WHEN ANALYTICAL RESULT WAS OBTAINED

figure 5.1

MID-1970s TRICHLOROETHYLENE GROUNDWATER CONCENTRATIONS  
OU-3 REMEDIAL INVESTIGATION  
Hooker/Ruco Site, Hicksville, New York

CRA

06863-00(017)GN-WA011 JUL 21/2000

10.0126

10.0127



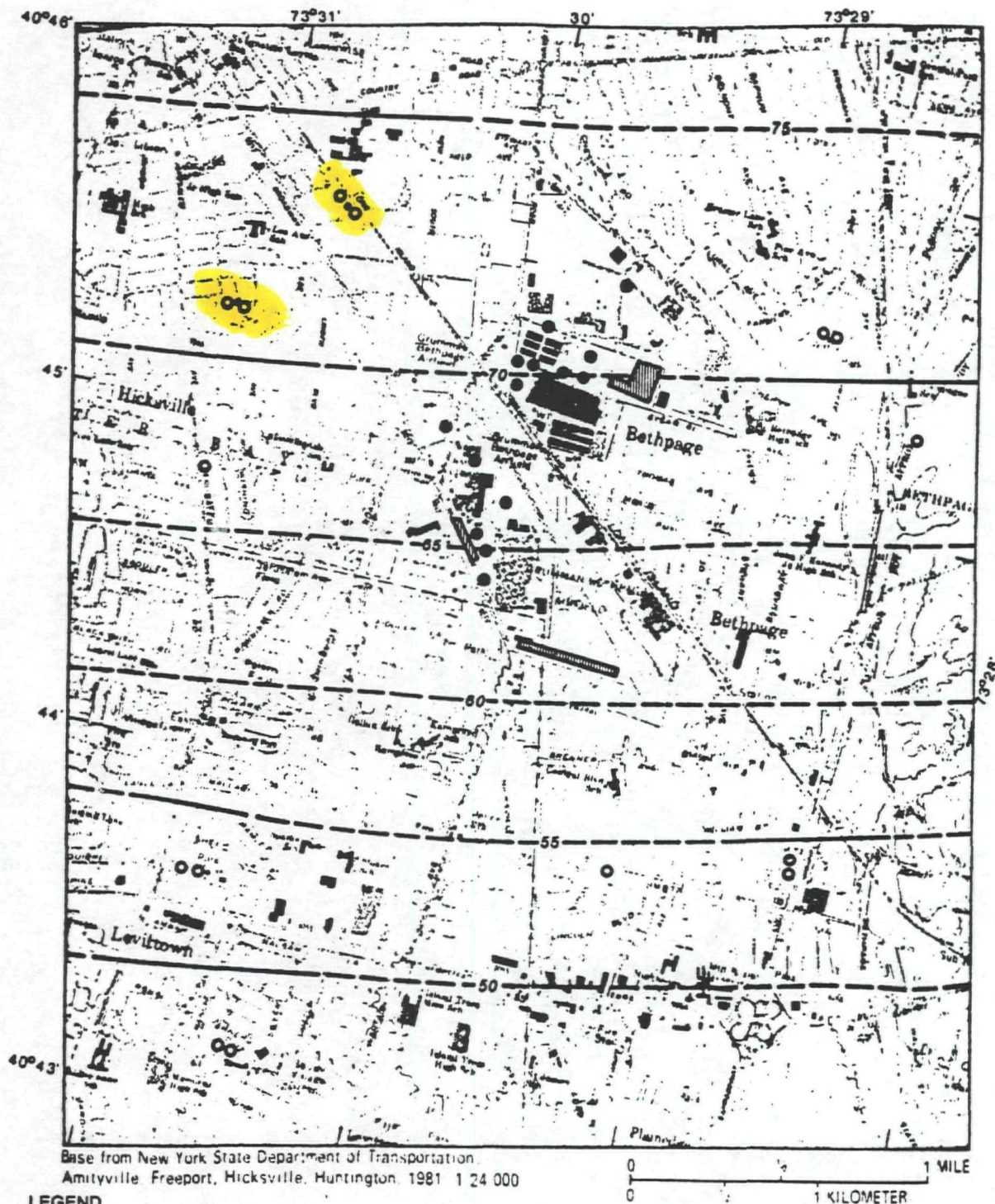


figure 4.5

**POTENTIOMETRIC SURFACE ELEVATION OF THE MAGOTHY AQUIFER  
BETHPAGE-HICKSVILLE-LEVITTOWN AREA, APRIL 1986  
OU-3 REMEDIAL INVESTIGATION  
Hooker/Ruco Site, Hicksville, New York**

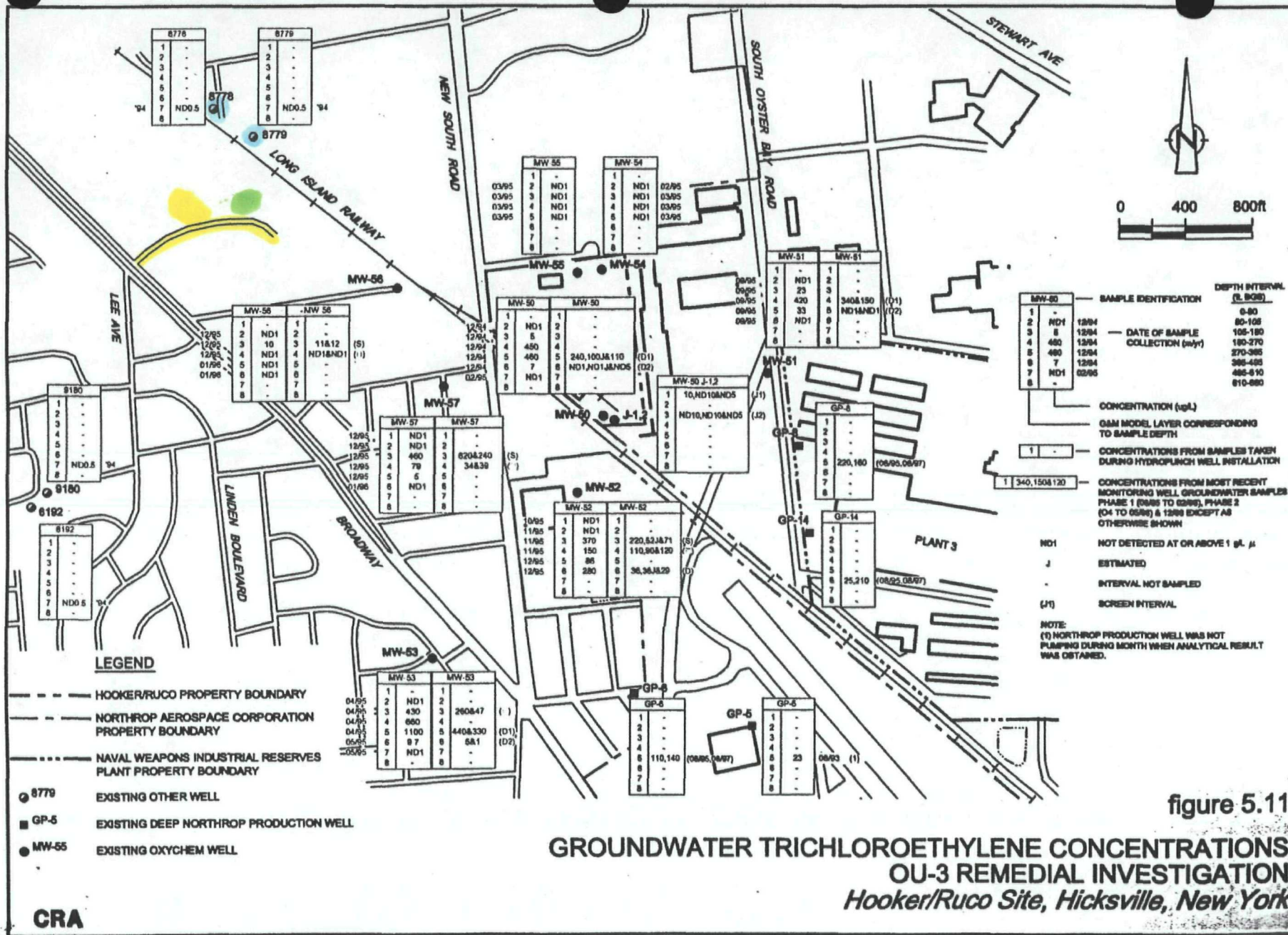
**CRA**

06883-00(017)GN-WA006 JUL 21/2000

10.0128







**figure 5.11**  
**GROUNDWATER TRICHLOROETHYLENE CONCENTRATIONS**  
**OU-3 REMEDIAL INVESTIGATION**  
*Hooker/Ruco Site, Hicksville, New York*

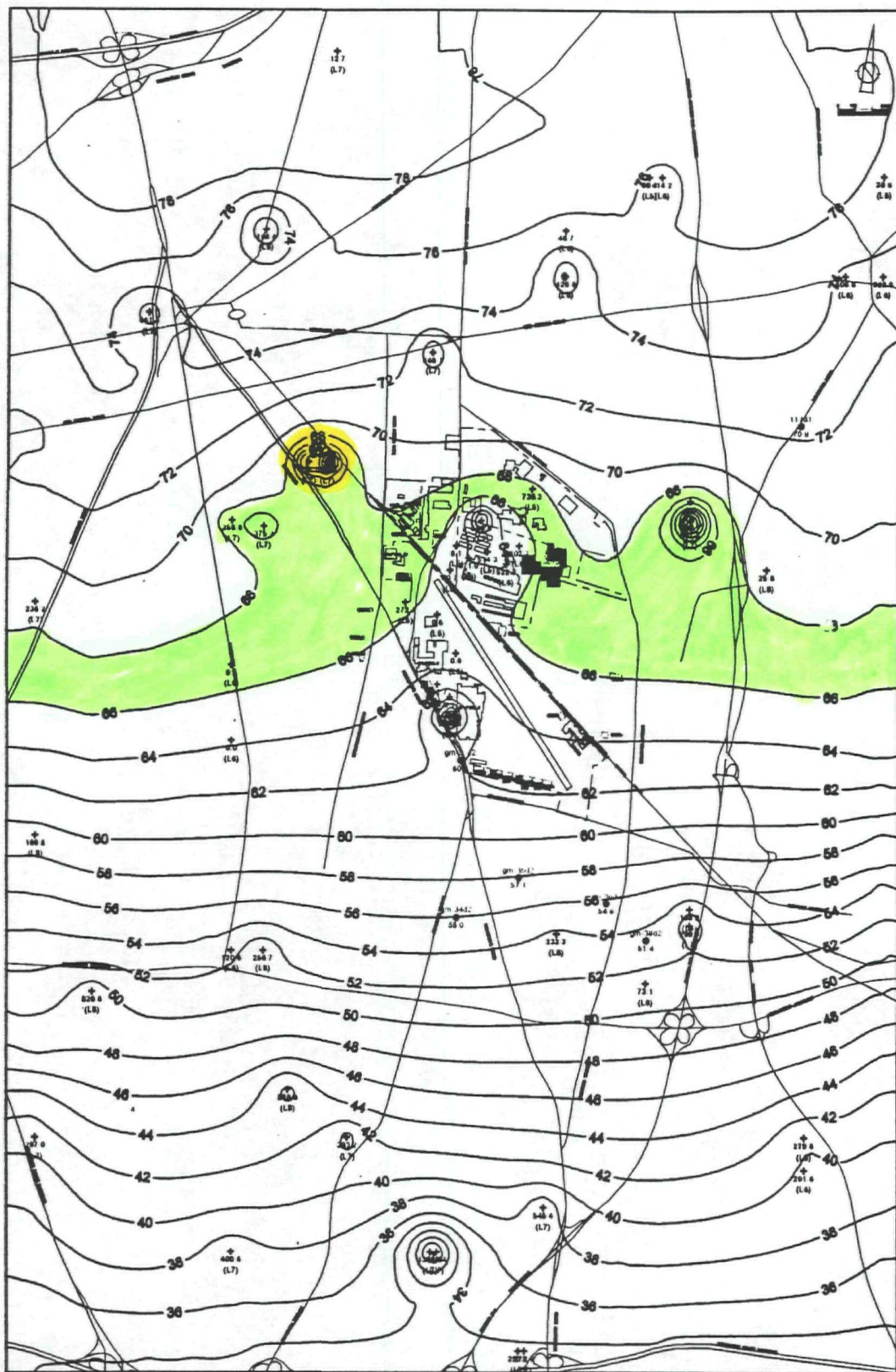
CRA

06883-00(017)GN-WA024 JUL 21/2000

MW-57







**Legend**  
 gm-181 Monitoring well location and average of April and September 1993 observed groundwater elevations (ft. amsl) in model layer 7.  
 66-20 Active recharge basin/pond location.  
 200.0 (L.5) Active pumping well location and pumping rate (gpm) from layer ( )  
 — 66 — Simulated steady-state hydraulic head using the updated calibrated G&M groundwater flow model (ft. amsl)

figure H.2.8  
**UPDATED G&M CALIBRATED GROUNDWATER FLOW MODEL**  
**STEADY-STATE HYDRAULIC HEAD IN LAYER 7**  
**OU-3 REMEDIAL INVESTIGATION**  
**Hooker/Ruco Site, Hicksville, New York**

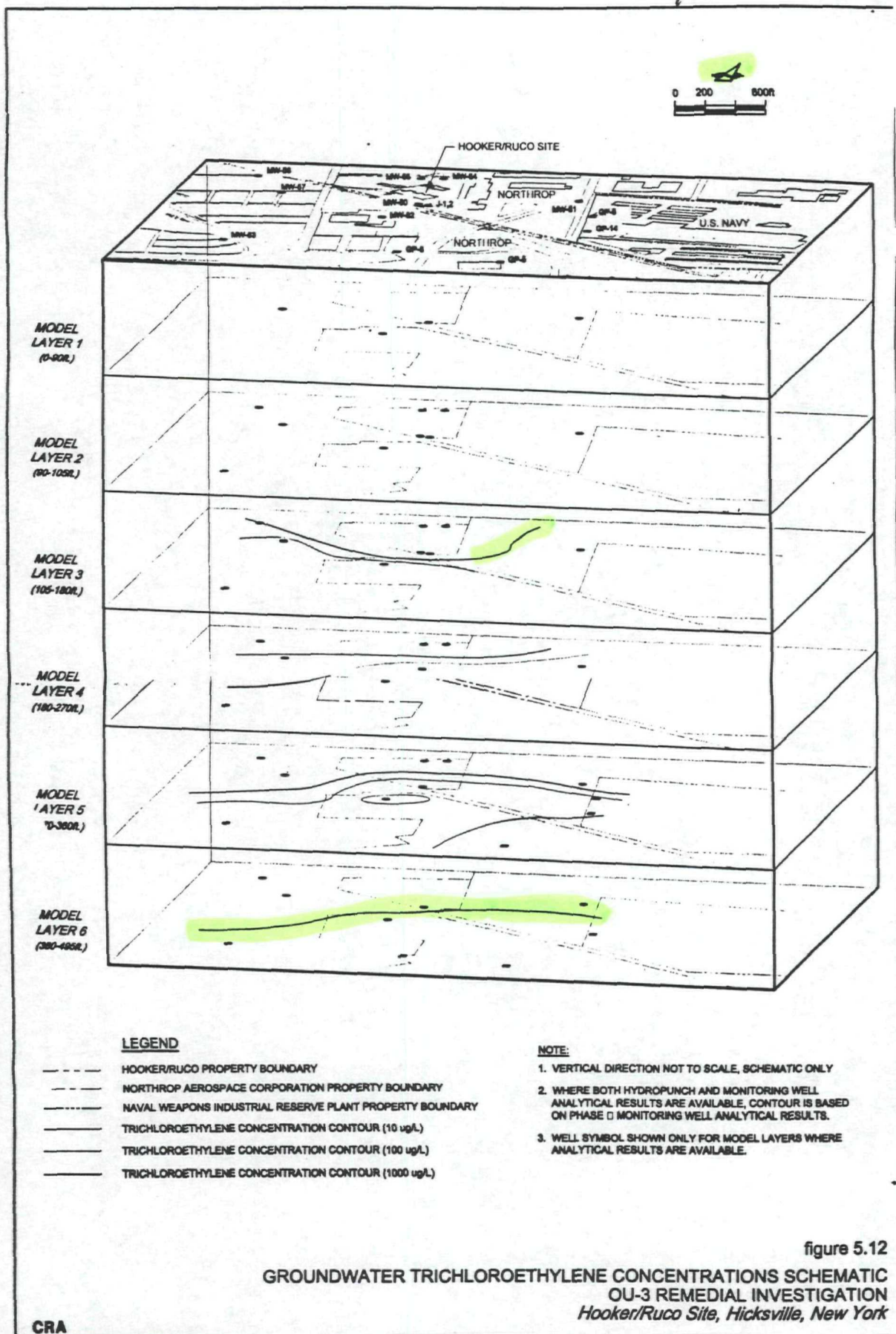
**CRA**

06853-00(017)GH-W+NYD (n Reg6808/nmod/grupdates/new6807h.ert) JAN 11/99

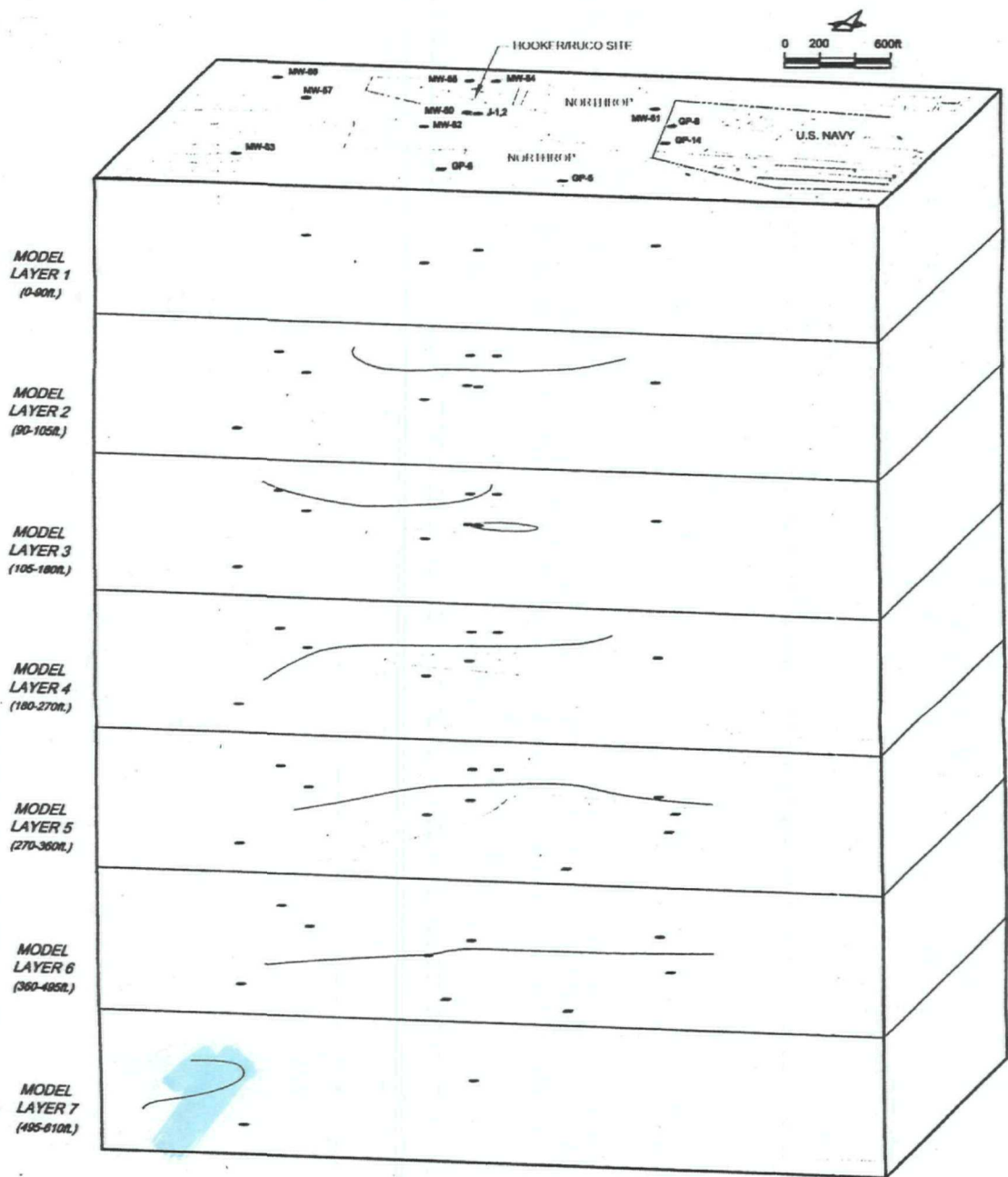
10.0132

10.0133









**LEGEND**

- HOOKER/RUCO PROPERTY BOUNDARY
- NORTHROP AEROSPACE CORPORATION PROPERTY BOUNDARY
- NAVAL WEAPONS INDUSTRIAL RESERVE PLANT PROPERTY BOUNDARY
- TETRACHLOROETHYLENE CONCENTRATION CONTOUR (10 ug/L)
- TETRACHLOROETHYLENE CONCENTRATION CONTOUR (100 ug/L)
- TETRACHLOROETHYLENE CONCENTRATION CONTOUR (1000 ug/L)

**NOTE:**

1. VERTICAL DIRECTION NOT TO SCALE, SCHEMATIC ONLY
2. WHERE BOTH HYDROPUNCH AND MONITORING WELL ANALYTICAL RESULTS ARE AVAILABLE, CONTOUR IS BASED ON PHASE II MONITORING WELL ANALYTICAL RESULTS.
3. WELL SYMBOL SHOWN ONLY FOR MODEL LAYERS WHERE ANALYTICAL RESULTS ARE AVAILABLE.

figure 5.14

**GROUNDWATER TETRACHLOROETHYLENE CONCENTRATIONS SCHEMATIC  
OU-3 REMEDIAL INVESTIGATION  
Hooker/Ruco Site, Hicksville, New York**

**CRA**

06863-00(017)GN-WA029 JUL 21/2000



10.0137

# HICKSVILLE WATER DISTRICT

4 DEAN STREET  
POST OFFICE BOX 247

HICKSVILLE, N.Y. 11802-1247  
516/931-0184  
FAX 516/931-6506



July 23, 1997

## BOARD OF WATER COMMISSIONERS

NICHOLAS J. BRIGANDI  
CHAIRMAN

GILBERT E. CUSICK  
COMMISSIONER

RICHARD A. HUMANN  
COMMISSIONER

Sadowski

30 Murray Road

Hicksville, New York 11801

RICHARD E. WOODWELL  
SUPERINTENDENT

WILLIAM SCHUCKMANN  
SUPERVISOR

DOREEN J. BRUNNING  
ACCOUNT CLERK

Re: Renovations to Hicksville Water District Plant No.9 at Alicia Street

Dear Mr. Sadowski,

The Board of Water Commissioners of the Hicksville Water District is planning a major renovation project at Plant No. 9 located at Alicia Street. The project calls for the installation of Wellhead Treatment in the form of Air Stripping Units and a general rehabilitation of the plant and the site. The main focus of the project is water treatment. The Board has always made water quality its highest priority, and the use of the latest in water treatment technology permits the Board to continue to deliver the finest quality water to its consumers now and in the future.

This project will be financed by a bond issue which will enable the Board to pay for the project over a 20 year period, and thereby reduce the impact on current taxes which this \$ 4.6 million dollar project will have.

This letter has been forwarded to you because questions were recently raised by our residents in the vicinity of the plant as to the impact of this project. The Board has provided information about this project in several recent issues of the **Watergram**, the district's semi-annual publication which is mailed to all residents and consumers in the district, several local newspaper articles, and direct mailings to area residents.

The Board will hold a Special Meeting for the purpose of explaining the project to area residents, and answering any questions on Monday, August 4, 1997 at 6:00PM at the district office located at no. 4 Dean Street, Hicksville, New York. A public hearing format will be used for the meeting and persons interested will be permitted to ask questions and make any statements they wish on the topic.

Regular meetings of the Board are held on the second and fourth Tuesday of each month beginning at 7:00PM. The public is also welcome at these meetings, but we would always recommend that if you plan on attending that you call the district office at 931-0184 to confirm the scheduling of the meeting since the meetings may be canceled and rescheduled from time to time, and we would not want to inconvenience any resident or customer by such action.

Very truly yours,

Board of Water Commissioners  
Hicksville Water District

10.0139

12

Janice Ziegele  
224 West Clearwater Road  
Lindenhurst, NY 11757  
631-422-0567

September 13, 2000

Town Babylon Water District  
Nassau County Water Administration  
Oyster Bay Water Administration

To Whom It May Concern,

I write this letter to you with both concern and anger. I have worked in the Farmingdale area for over 14 years and during that time the water at my company was tested on a monthly basis.

We no longer drink FARMINGDALE water. We only drink bottled water. Why? Many of the females in the offices became afflicted with cyst of the ovaries, all age groups, and all races. Coincidence? I don't think so.

Now there is a super fund. Just tell us the truth so we can protect ourselves and our children from any further harm.

Sincerely,

  
Janice Ziegele

10.0140



MR. SIMONELLO: 2000 acres.

MR. SCHARF: Correct.

4 MR. GILDAY: When you said New South Road  
5 and 107, those were good boundaries on the  
6 western side. If you go across what used to be  
7 the Navy property, over to about Steward Avenue,  
8 it's not as concentrated over there, it's less  
9 concentrated, but if you follow that south  
10 across Central and actually to about the place  
11 where there used to be Mid-Island Hospital,  
12 maybe, that's about the leading edge of the  
13 plume.

14 MR. SIMONELLO: So you're saying from New  
15 South over and out towards--

16 MR. SCHARF: It's approaching Hempstead  
17 Turnpike in the deeper groundwater.

18 MR. LYNCH: It's close to 600 feet deep,  
19 also.

20 MR. SIMONELLO: Why has it taken 20  
21 years? We heard about the same problem in the  
22 Hicksville Public Library 18 years ago. This  
23 was all discussed, and they said Superfund is in  
24 there, you don't have to worry about it, and 20  
25 years later I'm hearing the same rhetoric, and



1  
2 the plume is getting bigger. I don't understand  
3 it.

4 MR. SCHARF: If I can interject.

5 The thing is, granted, we're here today  
6 and it's taken awhile for us to get to this  
7 point, and this is the final remedy for the  
8 Hooker/Ruco site; okay? There have been other  
9 operable units in addressing that. As I  
10 mentioned, the contaminated groundwater has  
11 comingled with that of the Northrup-Grumman  
12 facility and that of the Navy facility. But  
13 keep in mind, partly just by coincidence, that  
14 the Navy or Grumman, and the Navy facility is  
15 operated by Grumman, has been pumping 14 million  
16 gallons of water a day, and the Grumman  
17 Corporation has been well aware that the  
18 groundwater was contaminated mainly from their  
19 sources and some from other sources. And  
20 starting probably back in the early '80s the  
21 state had approach Grumman to do something about  
22 this, and what they did was they began to clean  
23 up the groundwater that they were using for  
24 non-toxic cooling water. So even though the  
25 contamination has been around in this area for





sites in environmental emergencies, it let us take actions in two different ways. One, it let us take an emergency response action, this would be an action to take where, if something was on fire, we could pay to put it out, if we discover a warehouse full of drums that is a fire hazard, we can clean that warehouse out of drums, when we find a community with a heavily contaminated water supply we can supply alternate water.

They've created a way for pay for this, they created, at that time it was a 1.6 billion dollar fund, which was called the Superfund, which is what the law is commonly called, the Superfund Law. That's a lot of money, but there were a lot more sites out there than anybody thought there were, so the money doesn't go that far to clean up these site.

The law also gave us another way to approach it, to have someone else pay for the site, and that's how they get what is called the potentially responsible party pay for that. And that can be the people who either owned or operated the site, it can be the generator of the hazardous substances that are causing the



problem at the site, or it can be the transporter who brought those hazardous substances to the site.

In addition, we can have any of those people perform the studies and the cleanups, or what we can do is we can go spend the money from the Superfund, and then we have the authorization to go after them to recover the money that we used to pay for it.

Besides these emergency removal sites, we have the authority to do what we call a remedial site. What this is, these are for the bigger, long term clean-ups, looking for a more permanent clean-up. When the site is discovered, most of the sites that we get are referred to us by the state. We do what's called a preliminary assessment and a site investigation, which is gathering the information that already exists on the site, the state usually has a lot of information as to why they think the site is a problem; the site investigation, we can go out and take samples of the waste, of the hazardous substances to try to determine what's out there. We also get



what problems is it causing, what are the potential problems it can cause if it hasn't caused them yet.

We then move into the feasibility study stage, and what the feasibility study is, it's a study of various alternative solutions to the site that we compare to one another and we use criteria that the regulations require us to look for to compare one site on the other.

There are nine criteria, the first one is overall protection of human health and the environment; we are not allowed to select a remedy that doesn't protect human health.

Compliance with ARARs is the second, and ARAR is an applicable or relevant and appropriate standard of regulation. What this means is there are regulations out there that you have to follow that are directly applicable to whatever you are doing. For instance, if you're discharging water there are water regulations that you have to follow.

We obviously have to follow those, but this make us go one step further. If there are regulations that would make sense that we do



## EXECUTIVE SUMMARY

### I) Introduction

The Hooker Chemical/Ruco Polymers Superfund Site (Hooker/Ruco Site) is a 14-acre active polymer manufacturing facility located in Hicksville, New York. A Remedial Investigation (RI) and Feasibility Study (FS) were completed in August 1992 and August 1993, respectively, for the Hooker/Ruco Site. In April 1994, Occidental Chemical Corporation (OxyChem) initiated a program to investigate groundwater conditions beyond the Ruco property (BRP) to collect additional groundwater data around and primarily west of the Hooker/Ruco Site to complete the RI and to prepare a FS to address the off-Site vinyl chloride monomer (VCM) subplume in the Bethpage regional aquifer (Operable Unit-3). Local industries including Northrop, the Navy, and Hooker/Ruco have contributed chemicals to the Bethpage regional aquifer. There are elevated concentrations of perchloroethylene and trichloroethylene in the groundwater not related to the Hooker/Ruco Site. As their contribution to the regional aquifer remedy, OxyChem/Glenn Springs Holdings, Inc. (GSHI) have agreed to remediate the VCM subplume. However, it is anticipated that by focussing on the remediation of the VCM subplume, other chemicals attributable to the Hooker/Ruco Site also will be remediated.

This RI report for OU-3 presents the results of the BRP investigative activities, interpretations of the data, and conclusions regarding the occurrence and fate of the VCM subplume in the regional groundwater.

### II) Conclusions

The BRP investigation was performed in accordance with the EPA-approved documents entitled:

Work Plan for Groundwater Investigations Beyond the Ruco Property  
August 1994;

Interim Report  
Groundwater Investigations Beyond the Ruco Property  
June 1995; and



10.0153

follow, but since this doesn't fit in the exact  
nitch that the law was written for, we still  
have to follow them.

We look at the long-term effect in this,  
we're looking for something that is going to  
work in the long-term, we don't just want to put  
a bandaid and walk away from it and have a  
problem crop up later. We look for the  
reduction of toxicity, mobility or volume at the  
site by treatment. We also look at the short  
term affect, and what we look at there is we  
want to make sure that what we do doesn't cause  
a bigger problem in the short time while we're  
trying to solve a long term problem. An example  
of this is you don't want to do things, like dig  
things up and expose the population to it that  
could cause problems because you dug it up that  
didn't exist if you treated it some other way.

Implementability. It has to be something  
we can do. It sounds like a great idea, but if  
you can't go out there and do it it's not going  
to work. We look at cost, we look for the state  
acceptance and we also look for community  
acceptance.



MR. SIMONELLO: 2000 acres.

MR. SCHARF: Correct.

MR. GILDAY: When you said New South Road and 107, those were good boundaries on the western side. If you go across what used to be the Navy property, over to about Steward Avenue, it's not as concentrated over there, it's less concentrated, but if you follow that south across Central and actually to about the place where there used to be Mid-Island Hospital, maybe, that's about the leading edge of the plume.

MR. SIMONELLO: So you're saying from New South over and out towards--

MR. SCHARF: It's approaching Hempstead Turnpike in the deeper groundwater.

MR. LYNCH: It's close to 600 feet deep, also.

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22 state had approach Grumman to do something about  
23 this, and what they did was they began to clean  
24 up the groundwater that they were using for  
25 non-toxic cooling water. So even though the  
contamination has been around in this area for



1  
2 addressing the Ruco problem, the state is  
3 addressing the Grumman problem under our  
4 separate authorities.

5 MR. SCHARF: Make no mistake about it,  
6 it's a problem, that's why we're here today and  
7 that's why it's a state Superfund and federal  
8 Superfund site; we've been monitoring the  
9 groundwater, and the state, about a year ago,  
10 asked Grumman to put together a quarterly  
11 monitoring program. They were doing several  
12 distinct monitoring programs around the site,  
13 but they put one whole program together to track  
14 what's going on, where the plume is going, and  
15 we see what's on the site it being contained, we  
16 had them do a modeling, a groundwater modeling  
17 to help to prove that, as well as corroborate  
18 that with analytical data data, and that  
19 contamination just passed the site, we are now  
20 going to address, in the upcoming remedy for the  
21 north Grumman site, and that will be a public  
22 meeting which will be, hopefully, within the  
23 next four to six weeks

24 MR. GILDAY: Could I just over a few  
25 things.





1                   During the ensuing so many years since  
2  
3       the state got involved, a lot has happened at  
4       the property. Steve mentioned the IRM, the  
5       containment of the worse part of the plume at  
6       the site's southern boundary. Those systems  
7       there he talked about are pumping about 4,000  
8       gallons per minute. If you could see what  
9       they're extracting through the carbon, they're  
10      actually able to extract TCE out of the,  
11      groundwater to the tune of probably about one  
12      drum, a 55 gallon drum, per week, maybe every  
13      other week, and that's about 95 percent pure TCE  
14      through the system they have. So they have been  
15      taking a lot of this-- to me it's exciting  
16      because I see real science cleaning up the mess  
17      that has been made, and they're actually  
18      extracting out. So there's a lot of material  
19      that's being taken back out of the groundwater.  
20      Also, the areas where the spillage had occurred  
21      on and around the campus, the 600 acre campus,  
22      both Navy and Grumman, those areas had a lot of  
23      either perchlorethylene or trichlorethylene or  
24      even PCBs in there. They have largely been  
25      remediated by this time; there have been



1  
2           There has been, in the past, I believe it  
3 was '95, when we were dealing with one of the  
4 more contaminated PCB area on the site, that was  
5 part of Plant 3 that the Nave has. When we  
6 realized that this was towards the eastern end  
7 of the plant we have actually did, the State  
8 Health Department went into some of the yards  
9 near that property, and the good news is we  
10 didn't come with PCBs in the yards there. The  
11 bad news is that on the plant there's a lot of  
12 PCB contamination, and that's the subject of an  
13 entire another remedial action that the Navy and  
14 Grumman are implementing now.

15           There's also some other studies going on,  
16 some PCB contaminated areas that Grumman is  
17 actually delineating, the extent of it, how much  
18 they're going to have to do. There has  
19 definitely been a lot of soil sampling  
20 throughout what I call the campus, the Navy  
21 Grumman campus, and wherever we see that data  
22 getting close to the public, their homes, to  
23 parks or whatever, we say you got to go offsite,  
24 you got to take the soil samples and make sure  
25 it's not in people's gardens, make sure that



1 my own kids here. I understand that. I  
2 graduated Stony Brook, I know this is a very  
3 important issue, and the cancer question that  
4 Bill has talked about on Long Island is a  
5 paramount issue because it's apparently a  
6 concern, like it is everywhere else in the state,  
7 but there are certain elevated numbers, if I'm  
8 correct.  
9

10 MR. GILDAY: Increased incidences.

11 MR. SCHARF: And that's a concern. And  
12 knowing that vinylchloride, the main contaminant  
13 concerned, is a known carcinogen is a paramount  
14 issue, and that's why Kevin is here to present  
15 the plan, that we don't ever want that material  
16 to be exposed, and its for the protection of  
17 human health and the environment. And we found  
18 that this chemical can be easily oxidized, and  
19 that's what the whole program is that EPA is  
20 putting forth here.

21 MR. YATZYSHYN: My name is Greg Yatzyshyn.

22 I, too, remember these two people when we  
23 demonstrated at Hooker Chemical in 1981, and as  
24 excited as you are about what you see coming out  
25 their ground, my daughter was nine years old,



1  
2 MR. ANDRIOLA: But you don't go down a  
3 hundred feet?

4 MR. GILDAY: We'll go down as far as we  
5 need to until we get clean.

6 MR. ANDRIOLA: Okay.

7 MR. GILDAY: In fact we asked a number of  
8 people from Grumman about that, if we have  
9 contamination and it's not found at that depth  
10 we say go down deeper until you find the bottom  
11 of it.

12 MR. LYNCH: In these places where you see  
13 the monitoring wells put in we also monitor the  
14 soil all the way down.

15 MR. ANDRIOLA: And the wells are anywhere  
16 from 580 to 640 feet in depth down below; okay?  
17 Now, since 1976 you say up until 1985, or  
18 whatever, they were putting pollutants into this  
19 here water. Eventually that has to go down into  
20 the water table. Furthermore, they built this  
21 big water tower on Grumman property; are you  
22 familiar with that?

23 MR. GILDAY: Sure.

24 MR. ANDRIOLA: I think that the amount of  
25 gallonage is a million 800 thousand gallons of





1  
2 been contamination, you don't want to take a  
3 fresh parcel of land and use that, and potential  
4 problems even come to that. These are great  
5 sites to reuse for industry. So we do try to  
6 limit the liability to anyone who will be taking  
7 over the site.

8 MR. ANDRIOLA: Thank you.

9 THE CHAIRMAN: Does anybody have any  
10 questions about how we propose to take up  
11 vinylchloride?

12 MR. SIMONELLO: I don't know if you can  
13 answer this question, but the U.S. Navy was  
14 supposed to come down and clean up the site, the  
15 108 acres on the Grumman property. Whatever  
16 became of that? Last year we went to a meeting  
17 and there was three different phases, residen-  
18 tial, commercial and industrial that they were  
19 going to clean up. Did anything ever come of  
20 that?

21 MR. SCHARF: Are you referring to the  
22 Remedial Advisory Board meeting that the Navy  
23 put on at their facility?

24 MR. SIMONELLO: Yes.

25 MR. SCHARF: That is ongoing right now,



1  
2 to be turned over the Nassau County.

3 MR. GILDAY: There will probably be site  
4 use restrictions on that parcel and limiting it  
5 to either commercial or light industrial or  
6 industrial use in general. Now, that doesn't  
7 mean that gross contamination will be left,  
8 typically what happens is you attack any of the  
9 really bad contamination, you get it, as much as  
10 feasible-- there will be residuals, perhaps it  
11 will be 20 feet down, it will be 10 feet down,  
12 it may be near the surface, and what we will  
13 often do when it gets into the development  
14 question, there will be deed restrictions, deed  
15 notifications, there will be what we call  
16 institutional controls, literal documents that  
17 we file with the county and town clerks, whoever  
18 has jurisdiction, that every property owner will  
19 know about that, that contamination is there,  
20 and the state would have to be involved in any  
21 plan to dig that up.

22 MR. SCHARF: Also, any time you have an  
23 industrial facility like that, and as large as  
24 that facility was, as active as it was, there's  
25 always a possibility, as detailed as the



1  
2 investigation we do and an intensive as has been  
3 performed, there's always a possibility that  
4 some old tank that may have gone unidentified or  
5 whatever, and the Navy is required, by law, to  
6 come back and take care of any problems found on  
7 the site after the fact, and they make no bones  
8 about it. As long as there's a country there's  
9 going to a Navy, so that's not a problem, and  
10 that's the key.

11 But again, these are questions really  
12 that we should hold off to the Navy public  
13 meeting that's coming up.

14 MR. ANDRIOLA: I'm concerned with the  
15 groundwater right now.

16 MR. SCHARF: Right. Well, the  
17 groundwater, there's contamination on the Navy  
18 site, there's no two ways about the groundwater,  
19 and we're aware of it, and that's going to be  
20 part of the overall program that we're going to  
21 have.

22 MR. DEVINE: You mentioned disposing or  
23 regenerating carbon. What's that's all about?  
24 How do get rid of it or whatever? What's the  
25 point of that? Because they're actually talking



1  
2 For IRM at the Grumman facility, that is  
3 actually happening on site; right, Steve?

4 MR. SCHARF: When the carbon is full of  
5 these chemicals, to extract those chemicals back  
6 off the carbon into a, still basically a  
7 separator, and that's where you can actually see  
8 the TCE coming out in that process.

9 MR. DEVINE: Is that going on where the  
10 four stacks are?

11 MR. GILROY: Well, that's the co-gen  
12 facility, that's where power generation occurs.  
13 That's off of South Oyster Bay Road right at the  
14 fork.

15 MR. DEVINE: That's a power generator?

16 MR. GILDAY: Yes, right.

17 MR. SCHARF: It generates steam there.

18 MR. GILDAY: Right; but steam is used in  
19 the Grumman facility.

20 MR. ANDRIOLA: I have one more question.

21 On trichlorethylene, now we have this  
22 trichlorethylene in our water supply  
23 (indistinct). Now, we have this  
24 trichlorethylene in our water supply. Now, is  
25 this carbon filtration also taking this trichlor



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1  
2 question.

3 Who mailed these out.

4 MS. ECHOLS: I did.

5 MR. DEVINE: You did?

6 Because the one I received was missing  
7 pages 2-- every other page was missing, so it  
8 wasn't a complete thing to read, it was  
9 incomplete.

10 Thank you for your time.

11 MR. LYNCH: Thanks for telling us about  
12 that.

13 (Recess)

14  
15 MR. LYNCH: We're ready to resume.

16 If anyone has anymore questions or some  
17 more comments. Especially we're looking for  
18 comments on the proposal that we have for the  
19 vinylchloride plume, if we could concentrate on  
20 that we'd appreciate it.

21 Steve said there will be a public meeting  
22 on the groundwater plume sometime, I think it's  
23 in the next month. So if we can concentrate the  
24 questions on the vinylchloride I would  
25 appreciate it.



detection limit at monitoring wells MW-50D1 (11 and 11 µg/L), MW-50D2 (56 and ND10 µg/L), MW-53D2 (38 and 30 µg/L), MW-53S (ND10 and 20 µg/L), and MW-53D1 (19 and 67 J µg/L) in Phases I and II. Two other SVOCs were detected at or above the method detection limit in Phase II at monitoring well MW-50J1, phenol (17 µg/L), and 4-methylphenol (23 µg/L).

TICs were detected in groundwater samples ranging from 2J µg/L (GP-14) to 3400 J µg/L (MW-50J1) in Phase I and from 7J µg/L (MW-56I) to 2500J µg/L (MW-50J2) in Phase II. No individual TIC was detected at a concentration greater than 50 µg/L in the Phase I samples. No individual TIC was detected at a concentration greater than 50 µg/L in the Phase II samples with the exception of samples collected from MW-50J1 and MW-50J2 which comprise the shallow monitoring wells for well nest MW-50 which is located at the downgradient boundary of the Hocker/Ruco Site. The Phase II samples from MW-50J1 and MW-50J2 contained individual TIC concentrations ranging from 2 to 800 µg/L. The only TICs detected in wells beyond the Ruco property were 2-ethylhexanoic acid at 6J µg/L in monitoring well MW-53D2 (Phase I) and octanoic acid at 3J µg/L in monitoring well MW-53I (Phase II). The concentrations are below the groundwater cleanup criteria of 50 µg/L.


#### 5.4 PESTICIDES/PCBS

No pesticides/PCBs were detected (see Section 3.4.1) in the groundwater samples collected from wells MW-50 and MW-53. Therefore, pesticides/PCBs were not required to be collected and analyzed for any future BRP groundwater samples.

#### 5.5 OU-1 PREDESIGN INVESTIGATIONS

Groundwater was sampled and analyzed for TCL VOCs, SVOCs, CLP TICs, and TAL parameters from 20 monitoring wells to determine current groundwater chemical concentrations in the groundwater. In addition, groundwater was sampled and analyzed from seven wells for natural attenuation parameters to determine whether destructive natural attenuation processes, particularly biodegradation, are contributing to the reduction of groundwater chemical concentrations.






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# HICKSVILLE ILLUSTRATED NEWS

Vol. 8, No. 9

Thursday, September 16, 1993

35 Cents

## Escapee Last Seen In Hicksville

By Danny McCue & Gary McLendon

A 24-year-old man who has been charged with murder in Suffolk County kicked out the rear window of a corrections van and escaped in Westbury on September 7 as he was being taken to Nassau County for arraignment on robbery charges.

Everad Shouder, of Brentwood, remained at large as this newspaper went to press, having eluded authorities since escaping at 5:20 p.m. last Wednesday. As he was able to free himself from both his handcuffs and leg irons, authorities speculate that he may have had a key to his restraints.

"The vehicle was making a left-hand turn from Old Country Road onto Carman Avenue, when Shouder ejected himself



at a McDonalds in Central Islip last November. At the time of his arrest in that case, authorities had said that Shouder and his three co-defendants were believed to be responsible for a number of Nassau County robberies. Shouder was on his way to being arraigned for the robbery of a Westbury sneaker store which had occurred in the weeks prior to Velasquez' murder.

According to Anderson, the van was transporting three prisoners, including Shouder, from the Suffolk County Jail in Riverhead to the Nassau County jail in East Meadow, when it apparently got bogged down in traffic on Old Country Road in Westbury. It was then that Shouder, just five minutes from his destination, kicked out the

cape, Shouder had been shackled to his fellow transportees, all of whom had been pat searched at the Suffolk County jail by Nassau Corrections Officers. "I find it highly unusual that someone could get out of both handcuffs and both leg irons," Jablonsky said. At the same time, he added, "The vehicle has been searched; we haven't found anything inside the vehicle, a key or any kind of device that could have been used to do so."

A command post was set up at the scene. By the second day of the investigation, authorities had received several calls regarding possible sightings, but none had proved conclusive.

bury," said Sgt. Joseph Jablonsky.

Describing the scene that followed, Jablonsky added, "The officer did have his weapon out, but as you know, that intersection at that time of day is very crowded, and there wasn't an opportunity to take that kind of action."

After breaking free Shouder traveled along the Hicksville-Westbury border. He ran back across Old Country Road to Duffy Avenue, where the officer in pursuit lost track of him. A red sweatshirt, believed to have been worn by Shouder, was found by police in Hicksville.

Nassau County police have issued a warning to the public, stating that Shouder, who was being held without bail in Suffolk County while awaiting trial for second-degree murder, was unarmed at the time of his escape but should nevertheless be considered "extremely dangerous." He was described as slender, 5-foot-8 inches tall, and approximately 140 pounds. At the time of his escape he was wearing dreadlocks and a red prison jumpsuit. Police asked that anyone believing that they've seen him should call 911.

Deputy Inspector George Morrish of the Nassau County Police said that Shouder is originally from New Cassel and that police suspected he would go there in an attempt to find help. "We have no information that he's at a friend's house now," he said, "but he certainly had friends in the area and the direction in which he fled leads us to believe he may be hoping to come in contact with some of them."

"Timing is everything, and in terms of the escape happening the night before [school started], the timing was very, very bad," said Lt. Robert Anderson, public in-



Everad Shouder is still at large. The N.C.P.D. is asking anyone with information on this case to call 911.

formation officer for the Nassau County Sheriff's Department. Sheriff Joseph Jablonsky said that as part of the massive police presence in the area, officers would be stationed near area schools as a precautionary measure.

Shouder and three other Suffolk County men have been charged with second-degree murder in the death of Carlos Velasquez, 22, who was shot during a robbery

One deputy in the van stayed with the two other prisoners, who did not attempt to escape, while the other deputy chased him on foot. The deputy chased Shouder to Duffy Avenue in neighboring Hicksville, but lost him, authorities said.

By nightfall officers from Bureau of Special Operations, the Nassau Police Aviation Unit, the New York State Police, the Sheriff's Department, and the Long Island Rail Road Police — some 100 officers in all — were searching the Westbury/Hicksville area, as well as locations in Hempstead and New York City.

According to Jablonsky, Shouder's handcuffs were found inside the van, and his leg irons were found a short distance away at the intersection of Old Country Road and Carman Avenue. Prior to his es-

for 10 years and which can hold 100 inmates and two officers. "It's one of our transportation fleet. We've never had a problem with it, and this particular vehicle was considered to be in excellent condition."

The last time an escape of this kind was attempted was in the late 1960s, when an inmate being transported in a sedan also exited the vehicle by kicking out the back window. However in that case, the escapee was captured immediately.

The two corrections officers who were in the vehicle at the time of last week's escape remain assigned to transportation, pending the outcome of a Sheriff's Department investigation.

The search for Shouder and the investigation into his escape are continuing.

# EPA Announces Cleanup

By Gary McLendon

Representatives of the Environmental Protection Agency, the New York State Department of Environmental Conservation, the Nassau County Department of Health, the Town of Oyster Bay and others recently met with residents of Hicksville to discuss the EPA's planned cleanup of Hicksville's Hooker Chemical/Ruco Polymer manufacturing site.

The meeting, a result of soil, air and groundwater testing at the site, made present the realistic possibilities of the cleanup, while seeking input from the community on its concerns.

The community brought up several issues in the two-and-one-half-hour meet-

ing. Many residents were concerned with the air quality, while others were worried about the soil and groundwater contamination beyond the Hooker/Ruco premises.

"Has anyone tested the soil in our backyards, our or water?" asked Hicksville resident James Fleming. His comments were the first public ones made during the meeting, and were made after a extensive EPA slide presentation.

The demonstration, made by EPA Hooker/Ruco Project Manager Dale Carpenter, briefly detailed the site's history, the EPA's testing procedures, and their recommendations for cleaning up Hooker/Ruco.

The EPA proposed a nine-point cleanup

plan that incorporates the following procedures:

- Groundwater extraction to pump contaminated water on the site to the surface.
- Treatment of the contaminated water to remove contaminants.
- Discharge of the treated groundwater to a sump to be constructed on site.
- Additional soil testing in Sump # 2.
- Soil flushing for soils in sump 1 and possibly in sump 2 (if soil in sump 2 warrants it after testing).
- Additional soil testing in the monitoring well E area.
- Excavation of shallow soils in the former drum storage area and possibly Moni-

(continued on page 16)

sult of 14 years of testing, written studies, negotiation and bureaucratic maneuvering on the part of the EPA, Hooker/Ruco, the Department Environmental Conservation and others.

In 1979 the initial investigation of Occidental began after they made a bid to take over the Meade Paper Company. The problems are the result of waste water containing a carcinogenic compound (vinyl chloride) being discharged into recharge basins (sumps). In addition, contaminants in the form of PCBs were stored in discarded drums in at least one

area of the site.

According to the EPA, toxic hazards in the form of shallow soil contamination, deep soil contamination and groundwater contamination exist on the Hooker/Ruco site.

"Sump 1 had the highest level of contaminants," Carpenter said. "The first 10 feet of sump 2 had no contamination. Sump 3 had PCBs present and sumps 4, 5 and 6 have low levels of contaminants in the soils beneath these sites."

According to the EPA, tests in the form of soil vapor samplings, electromagnetic surveys, 50 borings and over 150 soil samples were taken and analyzed for organic and inorganic chemicals at the site.

The report and the meeting, however, failed to adequately address the expressed need for air quality tests to improve the quality of life for residents in the vicinity of the plant. Many residents complained about what they called "the horrible odor" emitted by Occidental. Representatives of the EPA at the meeting expressed their inability to adequately address the air quality issue, because it did not fall into their realm of bureaucratic control or expertise.

The lack of information concerning the air quality issue caused a noticeable murmur in the crowd, especially in light of statements made by various residents detailing respiratory and other health problems.

At this point of the meeting, Town of Oyster Bay Supervisor Lewis Yevoli and town councilman Tom Clark stepped in. They announced their intention to set up a meeting between the Nassau County Department of Health and concerned citizens of Hicksville to discuss the air quality question.

For its part, the EPA announced that it had conducted two air quality tests, both upstream and downstream and that results indicated that the releases were "legally permitted releases." The tests were conducted in 1989, it was later revealed.

In an attempt to refocus the proceedings Kevin Lynch, Superfund chief stated, "We're dealing with historical problems, not existing problems. This site is so unique because most sites are already abandoned."

The site is unique in other ways as well. According to the EPA, contaminants in the soil at the depth of 50 feet have traveled south to south east, and the depth of soil contamination is 125 feet in some areas. The aquifers are 500-600 feet down. "There is no imminent danger to anyone drinking the water," said Yevoli.

The area of contamination, however, spreads much further than the Hooker/Ruco borders. A map projecting the area of soil contamination shown during the meeting revealed that the area runs south from Hooker/Ruco for approximately a mile. "The area is about 2,000 feet wide and runs to around the Hempstead Turnpike area," said Lynch.

According to Carpenter, the EPA plans to stop the southward flow of contaminants on the Hooker/Ruco site by capping the sumps and building capture zones along the southern borders of the property. The caps will provide a physical barrier to prevent the downward movement of contaminants contained in precipitation. Capture zones will catch the water collected on the site, treat the water and flush out the contaminated sumps with the treated water.

As a result of the current situation, Sarah Meyland, of the Citizens Campaign for the Environment, asked that the following procedures be implemented:

- A test of air and soil quality be done in people's homes in order to ease the concern to the residents of these areas.
- Air monitoring equipment be installed in the areas around the plant.
- A health survey be done with residents in the entire community in areas adjacent to the plant (to determine whether a cause and effect relationship exists between the residents' health problems and air/or soil emissions).
- A remediation plan be put in effect to address the possibility of reverse leaching of toxic high density organics in the area.
- The entire area (not only the Hooker/Ruco) be put on a Superfund cleanup list.

In light of the EPA recommendations

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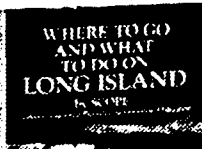
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and effect relationship exists between the  
residents' health problems and air/or soil  
emissions).

• A remediation plan be put in effect to  
address the possibility of reverse leaching  
of toxic high density organics in the area.

• The entire area (not only the  
Hooker/Ruco) be put on a Superfund  
cleanup list.

In light of the EPA recommendations  
made during last week's meeting, Carpen-  
ter stated that the following objectives are  
next in line: signing a record of decision  
by the EPA, soils investigation on site,  
further investigation of electro-magnetic  
objects on site, and off site groundwater  
investigation of the entire plume.

How long will it take to begin the clean  
up at the Hooker/Ruco site? "One and a  
half years," Carpenter said.

## Need Help?

Middle Earth Crisis Center's Hotline  
is open 24 hours a day seven days a  
week. Trained counselors are available  
to listen and counsel on any issue in-  
cluding depression, relationship prob-  
lems, alcohol and drug abuse, rape,  
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HICKSVILLE ILLUSTRATED NEWS - SEPTEMBER 16, 1993



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the other book.

MR. LYNCH: I'll give you this one.

MR. SIDOWSKI: Do I direct it to you?

MR. LYNCH: You can direct it to me.

MR. SIDOWSKI: I have one other comment.

I did state to you that the information is off, the evidence is conflicting inside of the report itself, and according to Rule 9 of the Federal Court of procedure, I have to notify you of that at it's hearing, because you, then, therefore, have to follow Rule 9.

Thank you.

MS ECHOLS: Any more questions from anyone?

MRS. TUECHLER: I just want a clarification of the 2,000 acres that you mentioned that were contaminated, the plume of water.

MR. SCHARF: That's based on the area below ground surface where there's contaminated water.

MRS. TUECHLER: Below ground surface.

MR. SCHARF: And below, most of it is below the water table.

MR. LYNCH: It would be the plume of



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# CONSTITUTION OF THE UNITED STATES

## PREAMBLE

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

## ARTICLE I—THE CONGRESS

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence

## U.S. CONSTITUTION

Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

**Section 3.** The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; [and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies].

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

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## U.S. CONSTITUTION

Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

## U.S. CONSTITUTION

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

### Section 8. The Congress shall have Power

To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

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## U.S. CONSTITUTION

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—  
And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

**Section 9.** The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

## U.S. CONSTITUTION

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

**Section 10.** No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

## ARTICLE II—THE PRESIDENT

**Section 1.** The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

## U.S. CONSTITUTION

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The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:— "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Of-

## U.S. CONSTITUTION

ficers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

### ARTICLE III—THE JUDICIARY

Section 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme

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## U.S. CONSTITUTION

Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

### ARTICLE IV—STATES—RECIPROCAL RELATIONSHIP BETWEEN STATES AND WITH UNITED STATES

Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

Section 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the

## U.S. CONSTITUTION

Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

### ARTICLE V—AMENDMENTS

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

### ARTICLE VI—DEBTS VALIDATED—SUPREME LAW OF LAND—OATH OF OFFICE

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and

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## U.S. CONSTITUTION

judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

### ARTICLE VII—RATIFICATION OF ORIGINAL ARTICLES

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. IN WITNESS whereof We have hereunto subscribed our Names,

GO. WASHINGTON—*Presidt.*  
and Deputy from Virginia

Attest William Jackson *Secretary*

*New Hampshire*

JOHN LANGDON

NICHOLAS GILMAN

*Massachusetts*

NATHANIEL GORHAM

RUFUS KING

*Connecticut*

WM. SAML. JOHNSON

ROGER SHERMAN

*New York*

ALEXANDER HAMILTON

*New Jersey*

WIL: LIVINGSTON

WM. PATERSON.

DAVID BREARLEY.

JONA: DAYTON

*Pennsylvania*

B FRANKLIN

THOS. FITZSIMONS

THOMAS MIFFLIN

JARED INGERSOLL

ROBT. MORRIS

JAMES WILSON

GEO. CLYMER

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*Delaware*

GEO: READ

RICHARD BASSETT

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## U.S. CONSTITUTION

<i>Virginia</i>	
JOHN BLAIR	JAMES MADISON JR.
<i>North Carolina</i>	
WM. BLOUNT	HU WILLIAMSON
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<i>South Carolina</i>	
J. RUTLEDGE	CHARLES PINCKNEY
CHARLES COTESWORTH PINCKNEY	PIERCE BUTLER
<i>Georgia</i>	
WILLIAM FEW	ABR BALDWIN

## AMENDMENTS

### Amendment I. Freedom of Religion, Speech and Press; Peaceful Assemblage; Petition of Grievances

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

### Amendment II. Right To Bear Arms

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

### Amendment III. Soldiers Denied Quarter in Homes

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

### Amendment IV. Search and Seizure

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### Amendment V. Grand Jury Indictment for Capital Crimes; Double Jeopardy; Self-Incrimination; Due Process of Law; Just Compensation for Property

No person shall be held to answer for a capital or otherwise

infamous crime by Jury, except in the Militia, where the individual shall not be in jeopardy of life or limb; nor shall any person be taken for private property, without just compensation.

### Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and Territory wherein the crime shall have been committed, or where the offence may have occurred, upon notice to him of the charges and the right to confront the witnesses against him, to be heard by him and to have the assistance of counsel for his defence.

### Amendment VII

In Suits at common law, where the value in controversy shall exceed two dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States.

### Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

### Amendment IX

The enumeration of certain rights in the Constitution shall not be construed to deny or disparage other rights retained by the people.

### Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited to the States, are reserved to the States or to the people.

### Amendment XI

The Judicial power shall extend to all Cases of Admiralty and Maritime Jurisdiction; to all Cases of Controversy between two or more States, between a State and Citizens of another State, between Citizens of different States, between Citizens of the same State claiming Lands under Grants of different States, and between a State and foreign Citizens, Subjects or Companies.



## U.S. CONSTITUTION

infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

### Amendment VI. Jury trials for crimes, and procedural rights

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

### Amendment VII. Civil Trials

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

### Amendment VIII. Excessive Bail, Fines, Punishments

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

### Amendment IX. Construction of Enumerated Rights

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

### Amendment X. Reserved Powers to States

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

### Amendment XI. Suits Against States

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

## U.S. CONSTITUTION

### Amendment XII. Presidential Electors

The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.—The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

### Amendment XIII. Slavery Abolished; Enforcement

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

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## U.S. CONSTITUTION

Amendment XIV. Citizenship; Privileges And Immunities; Due Process; Equal Protection; Appointment Of Representation; Disqualification Of Officers; Public Debt; Enforcement

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

## U.S. CONSTITUTION

**Section 5.** The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

### **Amendment XV. Universal Male Suffrage**

**Section 1.** The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

**Section 2.** The Congress shall have power to enforce this article by appropriate legislation.

### **Amendment XVI. Income Tax**

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

### **Amendment XVII. Popular Election of Senators**

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures. When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct. This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

### **Amendment XVIII. Liquor Prohibition [Repealed]**

### **Amendment XIX. Woman Suffrage**

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

### **Amendment XX. Lame Duck Amendment**

**Section 1.** The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

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## U.S. CONSTITUTION

Section 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Section 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

### Amendment XXI. Repeal of Prohibition Amendment

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven

## U.S. CONSTITUTION

years from the date of the submission hereof to the States by the Congress.

### Amendment XXII. Limitation on Presidential Terms

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

### Amendment XXIII. Presidential Electors for District of Columbia

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

### Amendment XXIV. Qualifications of Electors; Poll Tax

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

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## U.S. CONSTITUTION

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

### Amendment XXV. Succession to Presidency and Vice Presidency; Disability of President

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the



## U.S. CONSTITUTION

powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

### Amendment XXVI. Right to Vote; Citizens Eighteen Years of Age or Older

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

### Amendment XXVII. Compensation of Senators and Representatives

No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

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The judicial concerns with federalism, overdeterrence, and overburdened courts are real. They will thus continue to play an important role in § 1983 interpretation in the Supreme Court and other federal courts. However, they should not become more significant than they deserve to be. Thus, with respect to federalism, one might observe that § 1983 is a statute whose purpose is to enforce the Fourteenth Amendment which was in turn expressly designed to bring about a profound change in federal-state relations and our constitutional structure. With respect to overdeterrence, it may be argued that because of the importance of Fourteenth Amendment compliance, we are better off running the risk of *overdetering* Fourteenth Amendment violations than the risk of *under* deterring them. With respect to claims of overburdened federal courts, the protection of Fourteenth Amendment rights appears an appropriate and worthy use of scarce national resources. Indeed, it may even be suggested that the Forty-second Congress took these very positions when it enacted § 1983 in 1871.

#### § 1:10 Who may be a § 1983 plaintiff

A § 1983 cause of action for damages and declaratory and injunctive relief is given to "any citizen of the United States or other person within the jurisdiction thereof" who has suffered the deprivation of constitutional or certain federal statutory rights by virtue of the conduct of state officials.

#### § 1:11 — Citizens

Interpreting the "citizen . . . or other person" language in conjunction with similar language in the Fourteenth Amendment, the Supreme Court has held that only natural persons can be citizens of the United States; corporations cannot be.<sup>1</sup> Thus, a corporation cannot assert a violation of the privileges and immunities clause of the Fourteenth Amendment in a § 1983 case or, indeed, in any case.<sup>2</sup> However, the Court has also held that "a corporation is a 'person' within the meaning of the equal protection and due process of law

[Section 1:11]

<sup>1</sup> *Grosjean v. American Press Co.*, 297 U.S. 233, 244, 56 S. Ct. 444, 80 L. Ed. 660 (1936); *Hague v. Committee for Indus. Organization*, 307 U.S. 496, 514, 59 S. Ct. 954, 83 L. Ed. 1423 (1939).

<sup>2</sup> *Hague v. Committee for Indus. Organization*, 307 U.S. 496, 514, 59 S. Ct. 954, 83 L. Ed. 1423 (1939).



went on to conclude that CATPOOL had standing to assert a violation of its right to counsel.

### § 1:15 Who may be a § 1983 defendant

Section 1983 makes actionable the conduct of "[e]very person" who, under color of law, causes constitutional or certain federal statutory deprivations. Who is a suable person under § 1983 is discussed extensively in Chapter 6. Briefly, however, it is clear that all natural persons, corporate entities, associations,<sup>1</sup> and the like are persons for § 1983 defendant purposes.<sup>2</sup>

### § 1:16 — Local governments but not states

It is also settled, after *Monell v. Department of Social Services*,<sup>1</sup> that cities, counties, and other local government entities, whether general or special purpose, are suable as persons under certain circumstances. In contrast, however, states and their agencies are not persons suable directly under § 1983, even apart from the Eleventh Amendment which operates to bar such § 1983 suits in federal

#### [Section 1:15]

<sup>1</sup> The Second Circuit held in *Jund v. Town of Hempstead*, 941 F.2d 1271 (2d Cir. 1991), that unincorporated associations (in this case Republican political committees) could be sued under § 1983 as a matter of federal law even absent proof of membership ratification of the challenged conduct. New York law was inapplicable because federal law was not deficient within the meaning of 42 USC § 1988. Under federal law, unincorporated associations could be held liable under a theory of authorization even without membership ratification. In this case there was ample evidence connecting many committee members to the challenged coercive contribution scheme. The Second Circuit went on to rule in the alternative that even if federal law was deficient, still a state requirement of membership ratification would be inconsistent with the goals of § 1983 and would not be applied. It stated:

The policies of section 1983 would be undermined if an unincorporated association could avoid substantive liability unless and until unanimous membership authorization or ratification were proved. Requiring such proof, no matter how large the association involved, before assessing liability would prove an insurmountable obstacle to virtually any plaintiff.

941 F.2d at 1281.

<sup>2</sup> See generally Chapter 6 on local government liability and Chapters 7 & 8 on absolute and qualified individual immunity. That a defendant is a suable person under § 1983 does not, of course, go either to the merits of the § 1983 claim asserted or to the existence of state action.

#### [Section 1:16]

<sup>1</sup> *Monell v. Department of Social Services of City of New York*, 436 U.S. 658, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978).

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